Sacerdote, et al. v. New York University, 1:16-cv-06284 (KBF) (S.D.N.Y.)

Joint Pretrial Order

April 5, 2018

Defendant's Exhibit 892

Declaration of Douglas Chittenden

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DR. ALAN SACERDOTE, et al.,	:	Case No.: 1:16-cv-06284 (KBF)
Plaintiffs,	:	
	:	ECF Case
v.	:	
NEW YORK UNIVERSITY,	:	
Defendant.	:	

DECLARATION OF DOUGLAS CHITTENDEN

I, Douglas Chittenden, declare under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am the Executive Vice President and head of the Institutional Retirement business of Institutional Financial Services ("IFS") at Teachers Insurance and Annuity Association of America ("TIAA"). As the head of the Institutional Retirement business, my responsibilities include oversight of institutional retirement sales, strategy, product development and management; relationship and services management; and participant consulting and guidance for more than 15,000 retirement plan sponsors in the academic, research, medical and cultural fields.

2. I joined TIAA in 1985. I have held several positions at TIAA. My most recent positions were the following: From 2003-2006, I served as the Vice President of the Individual Products and Services business division. My responsibilities in this role included the management of TIAA's individual products and services, such as individual retirement accounts ("IRAs"), life insurance, brokerage services, and trust services. I became Executive Vice President and the head of the Individual Products and Services business division in 2011, and my

responsibilities expanded to include Internal Revenue Code § 529 qualified tuition plans ("529 plans") and banking.

3. From 2006-2011, I served as the head of TIAA's 529 plan business, which included responsibility for the management, distribution and delivery of the state 529 plans TIAA manages.

4. I have personal knowledge of the facts set forth herein and hereby testify to their truth.

I. HISTORY OF TIAA

5. TIAA was established in 1918 by Andrew Carnegie and the Carnegie Foundation for the Advancement of Teaching as a New York insurance company to provide retirement solutions and life insurance to educators.

6. TIAA's charter provides that "[t]he purpose of the corporation is to aid and strengthen nonprofit colleges, universities, [and similar government and research institutions] by providing annuities, life insurance, and accident and health insurance . . . all without profit to the corporation or its stockholders."

7. TIAA has operated without profit over the past 100 years.

8. Although TIAA's tax-exempt status was eliminated in 1998, its purpose and priorities remain the same, and it continues to operate without profit. Its mission remains unchanged.

9. TIAA historically has limited its institutional clients to tax-exempt, non-profit, and governmental clients.

10. TIAA is not publicly traded and therefore not subject to short-term shareholder interests. TIAA has subsidiaries, affiliates and businesses it owns that operate for profit. The revenues earned by those entities are held internally, reinvested in the business, or used to make

supplemental payments (in addition to contractually required ones) to plan participants who have TIAA Traditional fixed annuity accounts.

11. TIAA holds the highest rating currently awarded from all four leading independent insurance industry ratings agencies, and has been awarded numerous best-in-class awards for retirement plan participant and plan sponsor services.

II. TIAA TRADITIONAL

12. TIAA Traditional is a fixed annuity that provides contract holders with guaranteed principal and a minimum guaranteed crediting rate, as well as the option for additional amounts and guaranteed lifetime income (among other payout options available to retiring participants).

13. Over the last 100 years, TIAA Traditional has never missed a payout – even during periods of war, recession, and financial turmoil.

14. Like any annuity, TIAA Traditional has two distinct phases: accumulation and payout. A participant puts money into Traditional during the accumulation phase, and then may receive a lifetime income stream (or other income options) during the payout phase.

15. Contributions to TIAA Traditional during the accumulation phase are guaranteed to earn a minimum crediting rate (*i.e.*, a guaranteed minimum rate of return), which varies depending upon the annuity contract purchased by contract holders (*see* Section III).

16. TIAA also may declare additional amounts to be credited to annuitants in excess of the guaranteed minimum crediting rate. TIAA has declared additional amounts in every year since 1948.

17. Total crediting rates (guaranteed minimum plus additional amounts credited) vary depending upon the annuity contract type and the date of contribution. TIAA Traditional credits interest based on the period during which the participant makes each contribution.

18. In addition to the guaranteed minimum crediting rates and additional crediting amounts that TIAA may declare, TIAA also periodically returns unused contingency reserves to participants who accumulated over time in TIAA Traditional and then annuitized. As an insurance company, TIAA is required to maintain contingency reserves to ensure that it will be able to fulfill its contractual obligations to policyholders, even in the face of unexpected adverse circumstances. To the extent that built-up reserves on older contributions are not needed over time, TIAA makes distributions to accumulating participants in the form of additional annuity income during the payout phase. A typical stock insurance company can distribute unneeded reserves to its stockholders, but TIAA distributes unneeded reserves to its participants. This is a unique and significant benefit for participants in TIAA Traditional that accumulate over longer periods of time (as opposed to transferring in shortly before selecting lifetime income).

19. At the payout phase, a participant has the flexibility to take accumulated money out of TIAA Traditional in many ways. These include several lifetime income options (guaranteed lifetime payments) and several non-lifetime income options.

20. The TIAA General Account backs the guarantees and benefits of TIAA Traditional.

21. As of the end of 2016, TIAA has paid over $394 billion in benefits to retired participants.

III. THE TIAA TRADITIONAL ANNUITY CONTRACTS

22. TIAA has offered several different TIAA Traditional contracts to plan participants and sponsors over time. These contracts include Retirement Annuity ("RA"), Group Retirement Annuity ("GRA"), Supplemental Retirement Annuity ("SRA"), and Group Supplemental Retirement Annuity ("GSRA") – colloquially known collectively as "legacy" contracts – as well as the more-recent Retirement Choice ("RC") and Retirement Choice Plus ("RCP"). Each

contract has different features and guarantees, which I describe below.

Retirement Annuity Contract ("RA")

23. The first TIAA Traditional contract was an individually-owned contract between the participant and TIAA, now known as the Retirement Annuity contract. Employers make contributions to RA contracts but the contracting parties are the participant and TIAA. The plan sponsor cannot direct the transfer of assets to another investment offered in its retirement plan (*i.e.*, it cannot "map" an individual participant's existing RA assets).

24. Lump-sum withdrawals or transfers are not available from TIAA Traditional contributions made to, and earnings in, the RA contract. Withdrawals and transfers must be paid in 10 annual installments. These provisions are designed to allow the TIAA General Account, which backs the guarantees and benefits under TIAA Traditional, to invest in longer-dated assets that typically offer higher yields than shorter-term assets. Other annuity contracts described below may offer participants more liquidity (*i.e.*, more immediate withdrawal and transfer options), but these contracts typically have lower total crediting rates.

25. The minimum guaranteed crediting rate for contributions made in the RA contract is 3.0%.

Supplemental Retirement Annuity ("SRA")

26. In 1973, TIAA introduced the Supplemental Retirement Annuity contract. The SRA contract permits additional tax-deferred annuity contributions, deducted from the participant's paycheck. It is a supplement to the standard employer-funded retirement plan.

27. The SRA contract is an individually-owned contract between the participant and TIAA, and the plan sponsor cannot map a participant's existing SRA assets to another investment in the retirement plan.

28. The SRA contract is generally funded with employee elective deferrals. For this contract, TIAA permits lump-sum withdrawals and transfers from TIAA Traditional without any restrictions or charges.

29. The minimum guaranteed crediting rate for contributions made in the SRA contract is 3.0%. To compensate for the greater liquidity of the SRA contract, total crediting rates are typically lower than for contributions made in the RA contract.

Group Retirement Annuity ("GRA")

30. In 1984, TIAA introduced the Group Retirement Annuity. The GRA contract offers plan participants an additional liquidity option as compared to the RA contract, the other employer-funded contract.

31. The GRA contract is a group contract between TIAA and the plan sponsor. The sponsor makes contributions to GRA contracts. Participants receive certificates, and their rights are enforceable directly against TIAA. Because the certificates under the GRA contract are individually-controlled, the plan sponsor cannot map a participant's existing GRA assets to another investment in the retirement plan.

32. The GRA contract permits lump-sum withdrawals and transfers from TIAA Traditional, subject to certain limitations. Within 120 days of termination of employment, the participant may take a lump-sum withdrawal, subject to a 2.5% surrender charge. All other withdrawals and transfers from the account must be paid out in 10 annual installments.

33. The minimum guaranteed crediting rate for contributions in the GRA contract is 3.0%.

Group Supplemental Retirement Annuity ("GSRA")

34. In 1991, TIAA introduced the Group Supplemental Retirement Annuity contract ("GSRA" contract), a group version of the SRA contract. Contributions to the GSRA contract are employee elective deferrals deducted from the participant's paycheck. Like the SRA, the GSRA contract supplements the standard employer-funded retirement plan.

35. The GSRA contract is a group contract between TIAA and the plan sponsor. Participants receive certificates, and their rights are enforceable directly against TIAA. Because the certificates under the GSRA contract are individually-controlled, the plan sponsor cannot map a participant's existing GSRA assets to another investment in the retirement plan.

36. The GSRA contract permits lump-sum withdrawals and transfers from TIAA Traditional without any restrictions or charges. Total crediting rates are typically lower than for contributions made in the RA and GRA contracts. The minimum guaranteed crediting rate for contributions made in the GSRA contract is 3.0%.

Legacy Contracts

37. Many of TIAA's largest institutional clients continue to use some combination of the RA, SRA, GRA and GSRA contracts. The higher minimum crediting rate guaranteed by these contracts makes them attractive to plan sponsors, which frequently value higher guaranteed returns for their participants over the ability to map assets.

38. The RA, SRA, GRA and GSRA contracts include provisions that require the sponsor to offer CREF Stock Account and the CREF Money Market Account as companion investment options on the sponsor's retirement plan menu. As a result, participants are assured access to diversified retirement offerings through CREF Stock and the CREF Money Market

Account. TIAA does not require that participants in TIAA Traditional invest in the CREF Stock Account or the CREF Money Market Account. The individually-controlled contracts cannot be amended by plan sponsors to remove the requirement that CREF Stock Account and the CREF Money Market Account are a bundled offering with TIAA Traditional.

Retirement Choice ("RC") and Retirement Choice Plus ("RCP")

39. TIAA's most recent contracts are the Retirement Choice ("RC") and Retirement Choice Plus ("RCP") contracts.

40. TIAA introduced Retirement Choice and Retirement Choice Plus contracts in 2005 and 2006, respectively. The RC contract is generally offered to employer retirement plans. The RCP contract is generally offered to supplemental retirement plans.

41. RC and RCP contracts are institutionally-controlled group contracts between TIAA and the plan sponsor. Participants receive a certificate. Upon 90 days-notice, the plan sponsor can map assets in these contracts over the course of 60 months without any surrender charge. Plan sponsors have the discretion to include or exclude any of the offered TIAA and CREF annuities on the plan investment menu.

42. Participants may take lump-sum withdrawals from the RC contract within 120 days after termination of employment, subject to a 2.5% surrender charge. All other withdrawals and transfers by participants must be paid in 84 monthly installments. Participants may take lump-sum withdrawals from the RCP contract without any restrictions or charges.

43. The RC and RCP contracts have a minimum guaranteed crediting rate between 1.0% and 3.0%, determined annually. The minimum guaranteed crediting rate applies to contributions deposited during the applicable period. The lower minimum guaranteed crediting rate for the RC and RCP contracts reflects, in part, the mapping options available to plan sponsors under these contracts. Moreover, because there is higher risk to TIAA from a contract

that provides a static 3% minimum crediting rate (legacy contracts), as compared to an "indexed" or floating minimum crediting rate (RC/RCP), RC and RCP participants are generally credited slightly higher total interest crediting rates on accumulations in RC and RCP contracts.

TIAA As Sole Recordkeeper for TIAA Traditional

44. TIAA Traditional is a complex product to recordkeep and TIAA is the sole recordkeeper for TIAA Traditional.

45. The majority of TIAA's largest 200 clients with at least one 403(b) plan[1] use multiple recordkeepers. For the period of 2010 through 2016, between 110 and 147 of TIAA's largest 200 clients with at least one 403(b) plan employed a multi-vendor approach to recordkeeping. And, of those clients that have consolidated to a sole recordkeeper, the majority have chosen to consolidate with TIAA as their sole recordkeeper.

46. When a plan sponsor opts to eliminate TIAA as a recordkeeper, TIAA Traditional may cease to be available for new contributions. TIAA continues to recordkeep plan assets and charge recordkeeping fees for the individually-held contracts for employees who elect to maintain their investments in TIAA Traditional.

IV. THE CREF STOCK ACCOUNT

47. The College Retirement Equities Fund ("CREF") was the first variable annuity. The CREF Stock Account ("CREF Stock") was CREF's first offering.

48. CREF Stock is a broadly diversified investment vehicle. It invests across all major equity market segments, including large-, mid-, and small-cap stocks, both domestically and within foreign developed and emerging markets. Under normal circumstances, CREF Stock

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[1] TIAA's 200 largest clients were selected based on the amount of those clients' assets administered by TIAA in their respective defined contribution 403(b) plans as of December 31, 2010. Assets or contributions into 403(b) employee supplemental plans, which include only employee deferrals, were not considered.

seeks to maintain approximately 65-75% domestic equities and 25-35% foreign equities. The CREF Stock strategy seeks a favorable long-term rate of return through capital appreciation and investment income by investing primarily in a broadly diversified portfolio of common stocks. Three different investment strategies are used—active management, quantitative, and indexing—to manage the account.

49. CREF operates on an "at-cost" basis. CREF deducts expenses from the net assets of each class of each account (including CREF Stock) each business day for, among other services and expenses, investment management, administration, and distribution services. TIAA and its subsidiaries provide or arrange for the provision of these services to CREF, charging CREF the cost borne by TIAA and its affiliates.

50. CREF Stock historically has been offered primarily to tax-exempt, non-profit, and governmental clients.

51. CREF Stock's benchmark is detailed in the prospectus and is a composite index comprised of two indices: the Russell 3000 index (domestic equities) and the MSCI ACWI ex USA IMI index (foreign equities). The CREF Stock Account Composite Index is created by calculating a weighted average of the performance of the two indices using the target weights on the domestic and foreign segments of CREF Stock. The Composite Index is currently weighted 70% Russell 3000 index and 30% MSCI ACWI ex USA IMI index. Prior to mid-2011, the benchmark for the account was a similar composite index composed of four unmanaged indices: the Russell 3000 Index, the MSCI EAFE + Canada Index, MSCI Emerging Markets Index, and the MSCI EAFE + Canada Small Cap Index, whose weights were changed to reflect the relative sizes of the domestic and foreign segments of the account and to maintain its consistency with the account's investment strategies.

52. As of December 31, 2017, CREF Stock had approximately $127 billion in assets under management.

53. Of TIAA's 200 largest institutional clients with at least one 403(b) plan, all 200 clients held assets in CREF Stock for the period 2010 through 2014. In 2015 and 2016, all but one of TIAA's largest clients held assets in CREF Stock.

54. Of those 200 clients, over 93% had plans that received contributions into CREF Stock for the period 2010 through 2016.

55. Participants who invest in CREF Stock have the option to transfer their investment to TIAA Traditional in the future, at a guaranteed crediting rate and subject to a mortality table specified in the CREF certificate. Without this guarantee, participants investing in CREF Stock would risk several contingencies, including that TIAA Traditional may not accept new participant contributions, or that the mortality table and guaranteed minimum crediting rates become less favorable to the participant. CREF Stock charges participants half a basis point for these guarantees. Participants are also provided with prospectuses, which are made available to participants who invest in CREF Stock. DX752 through DX759 are true and complete copies of the CREF prospectuses, including CREF Stock.

56. CREF Stock's fees are among the lowest in the industry.

57. As of December 31, 2017, Morningstar rated CREF Stock as a 5-star fund—the highest possible rating. Morningstar currently rates CREF Stock as a 4-star fund overall, a 5-star fund for 3-years, a 4-star fund for 5-years, and a 4-star fund for 10-years. Morningstar rates funds based on an enhanced Morningstar Risk-Adjusted Return measure, which also accounts for the effects of all sales charges, loads, or redemption fees. Funds are ranked by their Morningstar Risk-Adjusted Return scores, and only the top 10% receive five stars, with the next 22.5% of

funds receiving four stars.

V. THE TIAA REAL ESTATE ACCOUNT

58. The TIAA Real Estate Account is a tax-deferred variable annuity contract.

59. The TIAA Real Estate Account historically has been offered primarily to tax-exempt, non-profit, and governmental clients.

60. The Real Estate Account allocates its investments primarily to directly-owned real estate and other real estate-related assets, such as real estate investment trust ("REIT") common stocks, and secondarily to non-real estate related short-term investments. The Real Estate Account intends to have 75-85% of its net assets invested directly in real estate or real estate-related investments and is authorized to hold up to 25% of its net assets in liquid real estate-related securities, such as publicly traded REITs and commercial mortgage-backed securities ("CMBS"). Traditionally, less than 10% of the Real Estate Account's net assets have been comprised of interests in such securities, and management intends that the Real Estate Account will not hold more than 10% of its net assets in such securities on a long-term basis.

61. The Real Estate Account provides participants with direct investment exposure in real estate and derives its returns primarily from rents and the appreciation of property values. It is not comparable to a REIT fund, which is an investment in a fund that invests primarily in securities of publicly-traded companies, which in turn own and manage real estate investments. The Real Estate Account provides important diversification to retirement portfolios because its performance may vary substantially from REITs. The Real Estate Account's volatility has been lower than that of most REITs over time because REITs are highly correlated to stocks, bonds, and cash, whereas the Real Estate Account is not.

62. As of December 31, 2017, the TIAA Real Estate Account had approximately $25 billion in assets under management.

63. Of TIAA's 200 largest institutional clients with at least one 403(b) plan, all but one client held assets in the TIAA Real Estate Account for the period 2010 through 2014. In 2015 and 2016, all but two of TIAA's largest institutional clients held assets in the TIAA Real Estate Account.

64. Of those 200 clients, over 84% had plans that received contributions into the TIAA Real Estate Account for the period 2010 through 2016.

VI. TIAA'S RECORDKEEPING SERVICES

65. TIAA negotiates a price with each of its institutional clients (or their consultants) to provide recordkeeping services to the client's retirement plan or plans.

66. The recordkeeping price (also called the "revenue requirement") that TIAA negotiates with plan sponsors represents the total compensation TIAA will earn for providing its bundled recordkeeping services. To determine the revenue requirement, TIAA considers, among other factors, its costs in servicing the plan, the services the plan sponsor requires, the number of plan participants, the average participant account balance, total plan assets under administration, and the allocation of plan assets across investment options. TIAA may adjust the revenue requirement based upon market competition and the size of the client relationship, among other subjective considerations. TIAA also considers costs in light of the fact that annuities require additional services that are not required for mutual funds and therefore, in comparison, increase administrative costs.

67. TIAA generally receives its negotiated compensation through a "recordkeeping offset"—*i.e.*, a portion of the expense ratio on the proprietary and non-proprietary investment options offered on the plan investment menu that is allocated to recordkeeping costs. When a participant invests in a TIAA or third-party investment option that has a recordkeeping offset, a portion of the expense ratio is paid to TIAA for providing recordkeeping services. Revenues

generated from recordkeeping offsets on the various investment products on the plan investment menu accrue in aggregate toward the revenue requirement TIAA has negotiated with the plan sponsor.

68. The average expense for recordkeeping services is 40% of the total "Plan Service Expense" paid to TIAA for the full range of services that TIAA provides the plans. The Plan Service Expense is reported annually to the plan sponsor as part of the reporting TIAA provides to the sponsor in connection with the sponsor's preparation of the plans' Form 5500 Department of Labor filings.

69. TIAA administers "Revenue Credit Accounts" for many of its institutional clients, which are the vehicle through which plan sponsors recoup certain recordkeeping offset revenues generated by the plans in excess of the negotiated revenue requirement (*i.e.*, accumulated revenues above the recordkeeping price). TIAA generally reconciles the revenue generated by recordkeeping offsets across the investment options on the plan menu against the negotiated revenue requirement, and deposits excess amounts into the plan's Revenue Credit Account. The plan sponsor uses funds in the Revenue Credit Account to pay qualified plan expenses, such as fees for a consultant, or allocates the funds back to participants.

VII. NYU'S REVENUE REQUIREMENT

70. New York University ("NYU") has worked with TIAA since 1919.

71. In March 2009, TIAA responded to a Request for Information ("RFI") from NYU. TIAA committed to working within NYU's governance process to develop a highly competitive pricing strategy.

72. In September 2009, TIAA responded to a Request for Proposal ("RFP") from NYU. TIAA's RFP response offered a recordkeeping price of 15 basis points on future flows to NYU's new proposed investment menu.

73. Following its finalist presentation to NYU and NYU's investment committee, TIAA responded to additional informational requests in January 2010.

74. In March 2011, NYU selected TIAA to be its sole recordkeeper for the NYU School of Medicine Faculty Plan (the "School of Medicine Faculty Plan"). TIAA and NYU entered into a recordkeeping agreement in 2012 under which TIAA's revenue requirement would be 16 basis points while the School of Medicine Faculty Plan retained more than one recordkeeper, and 10 basis points once it transitioned to a sole recordkeeping model with TIAA. Prior to that time, from 2008 through 2011, TIAA collected approximately 19.9 basis points in revenue from the School of Medicine Faculty Plan.

75. The 2012 recordkeeping agreement for the School of Medicine Faculty Plan also established a Revenue Credit Account. TIAA agreed to reconcile the actual recordkeeping offset revenue generated by the Plan's investment menu against the 16-basis point and 10-basis point revenue requirements. Excess revenue above those respective thresholds is returned to the Plan's Revenue Credit Account, and the Plan can use the funds in the Account to pay Plan expenses or allocate money to participants. Reconciliation of the actual recordkeeping offset revenue generated by the Plan's investment menu against the revenue requirements, and any revenue credits derived from that reconciliation, was retroactive to 2011.

76. NYU did not, at that time, accept TIAA's proposal to serve as its sole recordkeeper for the New York University Retirement Plan for Members of the Faculty, Professional Staff and Administration Plan (the "NYU Faculty Plan"), but TIAA and NYU agreed to a recordkeeping price of 13.8 basis points for the NYU Faculty Plan retroactive to 2011. Thus, although from 2008 through 2010 TIAA collected approximately 19.9 basis points in revenue from the NYU Faculty Plan, retroactive to January of 2011, that rate was reduced to

13.8 basis points. The 2012 amendment to the NYU Faculty Plan's recordkeeping agreement also established a Revenue Credit Account.

77. In 2014, TIAA and NYU renegotiated the revenue requirement to recordkeep the School of Medicine Faculty Plan down to 9 basis points.

78. In 2015, TIAA and NYU renegotiated the revenue requirement to recordkeep the NYU Faculty Plan down to 10 basis points.

79. In November 2016, TIAA responded to a second RFP from NYU with respect to the NYU Faculty Plan. TIAA's response detailed its proposal for bundled recordkeeping, administration, investment, and participant education and independent advice services for the NYU Faculty Plan. The proposal focused on TIAA's sole recordkeeping service model, its plan sponsor services, participant counseling and education services, open architecture investment platform, proprietary and non-proprietary investment options, and transition implementation services.

80. TIAA offered NYU a revenue requirement for bundled recordkeeping services of 3.4 basis points if NYU selected TIAA to be its sole recordkeeper for the NYU Faculty Plan.

81. In addition to the efficiencies gained by transitioning to a sole recordkeeping model, the reduction in NYU's recordkeeping price reflected reductions in TIAA's cost to recordkeep these and other retirement plans due to improved technology and increased automation and other efficiencies, as well as changes in the market for recordkeeping services. TIAA is continually upgrading and improving processes, systems, and technology to deliver the tools and services plan sponsors and participants want. For example, each year approximately 25% of TIAA's service technology budget is set aside for recordkeeping maintenance and enhancements. TIAA's core recordkeeping system is upgraded twice a year, while upgrades for

peripheral software are implemented throughout the year to address changing legal and regulatory requirements, install IT improvements, and meet client demand for new product capabilities.

82. NYU selected TIAA as its sole recordkeeper for the NYU Faculty Plan in March 2017 and agreed to a revenue requirement of 3.2 basis points for bundled recordkeeping services, effective March 1, 2017, to be reduced to 3.0 basis points effective April 1, 2018.

83. When the recordkeeping agreement for the School of Medicine Faculty Plan expired in 2017, TIAA and NYU renegotiated the revenue requirement to 4.0 basis points, retroactive to January 1, 2017.

84. The NYU Faculty Plan and the School of Medicine Faculty Plan are funded with legacy contracts except for the RCP contracts that are used for forfeitures and deposit of revenue credits.

VIII. PARTICIPANT SERVICES INCLUDED AS PART OF TIAA'S BUNDLED RECORDKEEPING PRICE

85. TIAA provides NYU participants with a wide range of services included as part of TIAA's bundled recordkeeping price. TIAA refers to its offerings to clients like NYU as a "high-touch" service model, reflecting the significant services and resources requested by the plan sponsor. Additionally, servicing NYU plans has required unique customizations over the years.

86. TIAA provides NYU with a minimum of 150 days per year of on-site education (*e.g.*, one-on-one counseling and/or group meetings on campus). Additional support is available if needed. Although TIAA manages the schedule of on-site education days, participants may schedule additional appointments online with financial consultants or wealth management advisors in three local TIAA offices.

87. During the first month of the NYU Faculty Plan's transition to TIAA as the Plan's sole recordkeeper, TIAA financial consultants were on-site three days per week based on demand for group meetings, including group seminars and departmental meetings. For the next two months, TIAA provided one-on-one counseling, information tables, and help desks three to four days per week, depending upon demand.

88. TIAA provides on-site education seminars and counseling schedules outside typical business hours for employees who do not work nine-to-five shifts. There is no additional charge for this service.

89. TIAA's dedicated communications consultant for NYU works with NYU and TIAA financial consultants to build comprehensive communications campaigns drawing on all resources, including print and e-mail communications as well as on-site and online education and individual counseling support to engage employees.

90. TIAA also provides plan-specific outcome analyses, customized, plan-branded communications for plan changes or enhancements, a plan-specific website, and e-mail and direct mail foundational retirement plan campaigns for no additional charge. TIAA can customize its educational messages for specific employee segments based on factors such as job classification, life stage, gender, and generation.

91. TIAA provides quarterly retirement portfolio statements to participants that contain a retirement income projection that determines if the individual is saving enough for retirement. Statements also include a calculation of the participant's personalized rate of return for the current quarter and year-to-date.

92. TIAA provides NYU participants with a third-party investment advice program,

through Morningstar,[2] which provides objective advice on all accounts and funds on TIAA's recordkeeping platform, including proprietary and non-proprietary investments. TIAA has provided this advice tool to NYU participants since 2008.

93. Morningstar's independent advice considers the level of risk necessary to achieve specific investment goals. It considers many possible outcomes to help employees gauge the probability of achieving their goals under different scenarios, and then presents a proposed investment strategy that compares the current portfolio mix to an alternative one that may improve the chances for success.

94. This independent advice service is part of TIAA's basic offering and is delivered to participants who choose to utilize it through TIAA's on-campus participant counseling program, at meetings in TIAA's local offices, and through pre-scheduled phone appointments.

95. Retirement Advisor, TIAA's online advice service, provides the same advice TIAA delivers in person and by phone in the form of personalized reports generated by the Morningstar advice engine. Retirement Advisor is an interactive tool that evaluates the participant's risk preference, retirement goals, and career stage, and delivers a simple action plan best suited to those needs. The plan will include specific fund and allocation recommendations that can be implemented by the participant with a few clicks.

96. There is no additional cost to NYU or the participants in the NYU Plans for utilizing TIAA's advice service.

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[2] Morningstar Inc. acquired Ibbotson Associates, Inc., a privately held firm that specialized in asset allocation, in 2006. The NYU Faculty Plan's 2012 recordkeeping amendment and the School of Medicine Faculty Plan's 2012 recordkeeping agreement provide that Ibbotson Associates, Inc. is the independent financial expert under the participant advice program. The School of Medicine Faculty Plan's 2017 recordkeeping agreement and the NYU Faculty Plan's 2018 recordkeeping agreement provide that Morningstar Investment Management, LLC is the independent financial expert under the participant advice program.

97. Participants can also call TIAA's National Contact Center ("NCC") with questions about the plans or to execute transactions in their accounts. A priority service team of telephone representatives in the NCC provides ongoing, dedicated support for the NYU Plans. These representatives are the primary point of contact for calls from NYU participants and are trained on the Plans' rules, investment menus, distributions, and any special operational processes.

98. During the NYU Faculty Plan's transition to sole recordkeeping with TIAA, TIAA trained a core group of approximately 120 telephone representatives to serve as the NYU enrollment and transition team.

99. NCC representatives are specially trained with detailed knowledge of the Plan and can educate and counsel participants on the Plan's structure, eligibility, features, investment options, and rules; complete the enrollment process; provide beneficiary updates and web support; and schedule appointments with financial consultants.

100. Full transaction support is provided for account balances, fund transfers, investment election changes, fund performance, loan modeling, loan initiation, request forms, hardship withdrawals, lump sum withdrawals, prospectus and statement requests, deferral changes, plan enrollment, PIN changes, asset allocation and investment advice, automatic rebalancing, retirement calculators, and plan provisions.

101. TIAA maintains an NYU-branded microsite on TIAA's website at www.tiaa.org/nyu. The microsite is customized with NYU colors and images, as well as NYU materials. Participants can view NYU-specific plan details and utilize comprehensive investment education to help with enrollment decisions.

102. TIAA's participant website provides a wealth of content, videos, and tools on

topics such as saving for retirement, building a legacy, and living well in retirement. TIAA also provides financial education webinars on several topics, such as the basics of investing, asset allocation, staying on track in a volatile market, and receiving retirement income.

103. NYU participants who enroll with TIAA can find information about their retirement accounts by logging into their account on TIAA's website. On their account pages, participants can view current TIAA account balances by asset class and fund or by plan, retirement account performance, and transaction history for current and previous quarters; view or change investment allocation; request annual portfolio rebalancing; transfer funds between investment options; view or cancel scheduled transfer requests; check last contribution and status of recent service requests; view their quarterly account statements; view or update their personal information; request loans; and initiate withdrawals. With TIAA's 360 Financial View, participants can include asset balances outside of TIAA.

104. NYU participants who enroll with TIAA also have access to a suite of personalized planning tools, including graphic displays of accumulations; asset allocation guidance; a Retirement Goal Evaluator that estimates how much a participant's salary can be replaced at retirement and how much more will need to be saved to make up for a shortfall; and several other online tools and calculators that help participants plan for retirement, such as an asset allocation evaluator, TDA contribution limits calculator, TDA advantage calculator, minimum distribution calculator, life insurance needs analysis, IRA eligibility and contribution limits, target value calculator, compound interest calculator, and financial organizer.

105. Participants can also generate personalized retirement illustrations. Based on a menu of available assumptions, illustrations hypothesize future values and income under different payout options.

106. NYU participants can find additional information on TIAA's website about the performance of TIAA's accounts and mutual funds; prospectuses and product disclosure materials; market research news and insights; tools to research and compare stocks, funds, and plan investments; information and registration for group and on-on-one meetings; and answers to frequently asked questions. They can e-mail questions directly to TIAA.

107. The TIAA mobile application enables participants to view current TIAA account information and personal rate of return, see pending and recent transaction details, contact an advisor or TIAA consultant, find TIAA office locations, and track fund performance.

108. TIAA provides plan sponsors like NYU with annual financial reports that give the plan sponsor the information it needs to file the plan's annual Form 5500 Reports with the Department of Labor. TIAA also provides NYU with a Form 5500 preparation service through Deloitte, for which TIAA did not charge a fee.

109. TIAA provides plan sponsors like NYU with the information the sponsor needs to make required disclosures to plan participants and beneficiaries. These disclosures provide summaries of plan services and costs, and include information on investment performance and fees. For NYU, TIAA also assisted with the delivery of these disclosures to participants.

110. TIAA offers a comprehensive set of services and tools to aid plan sponsors in ensuring compliance with the plans' provisions and governing documents. TIAA works with plan sponsors to determine which of these services and tools are necessary and appropriate for the plan's specific compliance needs.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of April 2018

Douglas Chittenden